

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L.
Madoff Investment Securities LLC and Bernard L.
Madoff,

Plaintiff,

v.

BORDIER & CIE,

Defendant.

Adv. Pro. No. 12-01695 (CGM)

**STIPULATION AND ORDER TO DISMISS ALLEGED TRANSFERS
FROM KINGATE GLOBAL FUND LTD. AND KINGATE EURO FUND LTD.**

Plaintiff Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities (“BLMIS”) and the estate of Bernard L. Madoff, and defendant Bordier & Cie (“Bordier,” and with the Trustee, the “Parties”), by and through their respective, undersigned counsel, stipulate as follows:

WHEREAS, on June 6, 2012, the Trustee commenced the above-captioned adversary proceeding by filing a complaint (the “Complaint”) against Bordier, to recover subsequent transfers allegedly received from Fairfield Sentry Limited (“Fairfield Sentry”), Kingate Global Fund Ltd. (“Kingate Global”), and Kingate Euro Fund Ltd. (“Kingate Euro,” and together with Kingate Global, the “Kingate Funds”). ECF No. 1; and

WHEREAS, on August 6, 2019, the Court entered an Order Pursuant to Section 105(a) of the Bankruptcy Code and Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure approving a settlement agreement (“Settlement Agreement”) by and among the Trustee and the Kingate Funds. *Picard v. Ceretti*, Adv. Pro. No. 09-01161 (CGM) (Bankr. S.D.N.Y. Aug. 6, 2019), ECF No. 417. The Settlement Agreement was a full and final settlement and satisfaction of the Trustee’s claims against the Kingate Funds. *Picard v. Ceretti*, Adv. Pro. No. 09-01161 (CGM) (Bankr. S.D.N.Y. July 17, 2019), ECF No. 413-2. The release granted by the Trustee in the Settlement Agreement extended to the Kingate Funds’ shareholders to the extent that any such shareholders, like Bordier, received transfers of money from the Kingate Funds but did not include a release of claims that the Trustee may bring that are unrelated to the Kingate Funds’ investments in or withdrawals from BLMIS. *Id.*;

IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, and **SO ORDERED**, by the Court:

1. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, as incorporated by Rule 7015 of the Federal Rules of Bankruptcy Procedure, the Trustee amends his Complaint to dismiss Count Two against Bordier. Specifically, the Trustee’s claims to recover subsequent transfers that Bordier allegedly received from Kingate Global, totaling approximately \$134,959, are hereby dismissed.

2. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, as incorporated by Rule 7015 of the Federal Rules of Bankruptcy Procedure, the Trustee amends his Complaint to dismiss Count Three against Bordier. Specifically, the Trustee's claims to recover subsequent transfers that Bordier allegedly received from Kingate Euro, totaling approximately \$140,894, are hereby dismissed.

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3. This stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this stipulation shall be deemed an original.

Dated: December 8, 2021
New York, New York

BAKER & HOSTETLER LLP

By: /s/ Torello H. Calvani
45 Rockefeller Plaza
New York, New York 10111
Telephone: 212.589.4200
Facsimile: 212.589.4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Torello H. Calvani
Email: tcalvani@bakerlaw.com
Joanna F. Wasick
Email: jwasick@bakerlaw.com
Heather R. Wlodek
Email: hwlodek@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard,
Trustee for the Liquidation of Bernard L.
Madoff Investment Securities LLC and the
Chapter 7 Estate of Bernard L. Madoff*

SO ORDERED.

**ALLEGAERT BERGER & VOGEL
LLP**

By: /s/ John F. Zulack
111 Broadway, 20th Floor
New York, New York 10006
Telephone: 212.571.0550
Facsimile: 212.571.0555
John F. Zulack
Email: jzulack@abv.com

Attorney for Defendant Bordier & Cie

**Dated: December 13, 2021
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
Chief U.S. Bankruptcy Judge**